

**REMARKS**

Prior to entry of this Amendment:

- Claims 1-23 were pending in the present application
- Claims 1-23 stand rejected

Upon entry of this Amendment, which is respectfully requested for the reasons set forth below:

- Claims 1-23 will be pending
- Claims 1-9, 12, 13 and 19-21 will be amended
- Claims 1, 22 and 23 will be the only independent claims

**A. Office Action was Never Received**

As discussed with the Examiner, we never received a copy of the present Office Action when it was mailed on October 6, 2003.

The Examiner courteously faxed a copy of the Office Action on April 16, 2004 and indicated that a Notice of Abandonment for failure to respond to the Office Action was forthcoming.

In response to the Notice of Abandonment mailed June 1, 2004, we concurrently submit this Amendment & Response to Office Action and a Petition to Revive this Application.

**B. Claim Amendments****B.1. Claim 1 has been amended to correct a typographical error**

No new matter has been added. In Claim 1 the phrase “of the first set” was inadvertently inserted in the claim due to a clerical error. “of the first set” has been removed.

**B.2. Claims 1, 12 and 13 have been amended to recite *at least one other gaming session***

We dispute that the subject matter of Claims 1, 12 and 13 is not adequately described in the Specification, for reasons outlined below.

The term “at least one gaming session” has been replaced with *at least one other gaming session*. The amendment merely clarifies that none of the *at least one other gaming session* is the same as the *first gaming session*. No new matter has been added.

**B.3. Claims 1-9 have been amended to recite *the rank of the first gaming session***

We dispute that the subject matter of Claims 1-9 is not adequately described in the Specification, for reasons outlined below.

The term “first rank” has been replaced with *rank of the first gaming session*. No new matter has been added.

**B.4. Claim 19 has been amended to recite *the first player is associated with the first gaming session***

We dispute that the subject matter of Claim 19 is not adequately described in the Specification, for reasons outlined below.

Claim 19 has been amended to include the feature that *the first player is associated with the first gaming session*. No new matter has been added.

**B.5. Claims 20 and 21 have been amended**

We dispute that the subject matter of Claims **20 and 21** is not adequately described in the Specification, for reasons outlined below.

The term “second rank of the second gaming session” has been replaced with *rank of the second gaming session* (Claim **20**) and “second gaming session having a second rank” has been replaced with *second gaming session having a rank* (Claim **21**). No new matter has been added.

**C. Section 112 Rejections****C.1. All of the Features of All of Claims 1-23 are Adequately Described in the Specification**

Claims **1-23** stand rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. We respectfully traverse the Examiner’s rejection of Claims **1-23** under § 112, first paragraph.

**1.1. Claims Were Originally Filed—No Rebuttal of Strong Presumption of Adequate Disclosure**

The Examiner asserts: “one does not know as to what first set and first rank the Applicant is referring to. The Applicant needs to point out in the specification where one can find support for these limitations.”

There is a strong presumption that an adequate written description of the claimed invention is present in the specification as filed. In re Wertheim, 541 F.2d 257, 262 (C.C.P.A. 1976). Consequently, rejection of an original claim for lack of written description should be rare. MPEP § 2163.03.

Each of rejected Claims **1-23** was originally filed with the present application. Thus, the original filing of Claims **1-23** establishes a strong presumption that the inventors had possession of those claimed inventions at the time the application was filed. The Examiner has not provided any evidence rebutting this strong presumption.

Further, the Summary of Invention section of the Specification also establishes a strong presumption that the inventors were in possession of at least the subject matter of Claim 1.

### **1.2. “Essential Limitations”**

The Examiner suggests: “Perhaps essential limitations are missing.” There is no evidence of record that we believe any limitations are “essential” to any embodiment. We state that no essential limitations are missing and all of the claims are enabled.

### **1.3. *Per Se* Rejection of Dependent Claims 2-21 is Improper**

Claims 2-21 are rejected only because they are dependent on rejected Claim 1. We respectfully traverse the Examiner’s cursory rejection of Claims 2-21.

Claims 2-21 were also originally filed; the Examiner has not provided any evidence to rebut the strong presumption that the inventors were in possession of the claimed subject matter at the time of filing.

Further, even if the rejection of independent Claim 1 was proper (which we dispute), that would not establish automatically that the subject matter of Claims 2-21 was also inadequately conveyed by the written description. For example, the additional limitation(s) of a dependent claim might clarify the subject matter of a rejected independent claim in such a way as to be in accordance with the written description (e.g., by limiting an overly-broad feature, unsupported by the disclosure, to a described species).

The Examiner has not addressed the scope and content of any of the dependent Claims 2-21, and thus has not provided a *prima facie* case that any of the dependent claims is unpatentable under § 112, first paragraph.

### **C.2. Claim 1 has been amended to correct insufficient antecedent basis**

Claims 1-21 stands rejected under 35 U.S.C. 112, second paragraph, as being indefinite for reciting “of the first set” without sufficient antecedent basis in the claim.

Upon entry of this amendment, “of the first set” will be deleted from Claim 1. We respectfully submit that Claims 1-21 are in condition for allowance.

**C.3. Claims 1, 22 and 23 are not “ambiguous” or indefinite**

The Examiner also states that Claims 1, 22 and 23 are “ambiguous as to what the Applicant is trying to claim. Perhaps essential limitations are missing. Since a first gaming session is determining, one needs to know whether another gaming session is being determined in addition to the first one. Clarification is required.”

Although the Examiner did not explicitly reject Claims 1, 22 and 23 for indefiniteness based on this asserted finding, the Examiner does assert that the scope of Claims 1, 22 and 23 is “ambiguous.” To the extent that the Examiner intended to reject Claims 1, 22 and 23 under § 112, second paragraph, for indefiniteness, we traverse such a rejection.

**3.1. Claim 1 now recites a first gaming session and at least one other gaming session**

We dispute that Claim 1 was “ambiguous” as previously recited. Further, in this Amendment we have clarified Claim 1 so that a *first gaming session* is determined and *at least one other gaming session* is determined. Claim 1 clearly recites that at least one other gaming session is determined in addition to the first determined gaming session and is definite under § 112, second paragraph.

**3.2. Claims 22 and 23 are not “ambiguous”**

We do not understand why the Examiner believes independent Claims 22 and 23 are “ambiguous.”

Each of Claims 22 and 23 clearly recites *determining a first gaming session [or a first set of at least one gaming session] of a [first] player and determining [a second set of] at least one gaming session of at least one other player*. Contrary to the Examiner’s interpretation, it is clear that the claim requires that two different gaming sessions (at a minimum) must be identified—one for each of two different players (i.e., a *[first] player* and an *other player*). Thus, there can be no “ambiguity” as to whether “another gaming session is being determined”; the claims clearly indicate this.

The Examiner has failed to establish a *prima facie* case of indefiniteness of Claims 22 and 23. Further, Claims 22 and 23 are definite under § 112, second paragraph.

### **3.3. Per Se Rejection of Dependent Claims 2-21 is Improper**

Claims 2-21 are rejected only because they are dependent on rejected Claim 1. To the extent that the Examiner intended an indefiniteness rejection of Claims 2-21 because independent Claim 1 is deemed “ambiguous,” we respectfully traverse the Examiner’s cursory rejection of Claims 2-21 on this basis.

Even if the rejection of independent Claim 1 was proper (which we dispute), that would not establish automatically that the subject matter of Claims 2-21 was also unreasonably unclear (i.e., indefinite). For example, the additional limitation(s) of a dependent claim might clarify the subject matter of a rejected independent claim in such a way as to make the legal scope reasonably clear to one skilled in the art.

The Examiner has not addressed the scope and content of any of the dependent Claims 2-21, and thus has not provided a *prima facie* case that any of the dependent claims is indefinite under § 112, second paragraph.

### **3.4. “Essential Limitations”**

The Examiner suggests: “Perhaps essential limitations are missing.” There is no evidence of record that we believe any limitations are “essential” to any embodiment. We state that no essential limitations are missing and we regard what is claimed as our invention(s). Accordingly, the Examiner’s suggestion cannot form the basis for a rejection § 112, second paragraph.

For at least the reasons stated herein, Applicants respectfully request allowance of the pending Claims 1-23.

**D. Conclusion**


It is submitted that all of the claims are in condition for allowance. The Examiner's early re-examination and reconsideration are respectfully requested.

Please charge any fees that may be required for this Amendment to Deposit Account No. 50-0271. Furthermore, should an extension of time be required, please grant any extension of time which may be required to make this Amendment timely, and please charge any fee for such an extension to Deposit Account No. 50-0271.

If the Examiner has any questions regarding this amendment or the present application, the Examiner is cordially requested to contact Michael Downs at telephone number (203) 461-7292 or via electronic mail at [mdowns@walkerdigital.com](mailto:mdowns@walkerdigital.com).

Respectfully submitted,

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Date

  
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